

United States District Court
for the
Southern District of New York

ROBERT ONIEAL,

Plaintiff,

Civil Action No.: 1:19-CV-07789

-against-

CHRISTOPHER ONIEAL,

Defendant.

SUMMONS IN A CIVIL ACTION

To: Christopher Onieal
174 Grand Street, Apartment 2A
New York, New York 10013

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Santamarina & Associates
260 Madison Avenue, 17th Floor
New York, New York 10016

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Dated: New York, New York
August 20, 2019

CLERK OF THE COURT

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Civil Action No.: 1:19-CV-07789

ROBERT ONIEAL,

Plaintiff,

COMPLAINT

-against-

JURY TRIAL DEMANDED

CHRISTOPHER ONIEAL,

Defendant.

Plaintiff Robert Onieal, by his attorneys, Santamarina & Associates, as and for his Complaint against Defendant Christopher Onieal, alleges and sets forth as follows:

PARTIES

1. Plaintiff is a United States citizen domiciled in North Carolina. He resides at 6613 Delchester Place, Greensboro, North Carolina 27410.
2. Defendant is a United States citizen domiciled in the City, County and State of New York. Defendant resides at 174 Grand Street, Apartment 2A, New York, New York 10013.
3. Plaintiff and Defendant are brothers.

JURISDICTION AND VENUE

4. This Court has original jurisdiction of this civil action pursuant to 28 U.S.C. § 1332(a) (diversity) because Plaintiff and Defendant are citizens of different States and the amount in controversy exceeds the sum or value of \$75,000.00.
5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1331(b)(1) because it is where Defendant resides.
6. This Court may exercise personal jurisdiction over Defendant because he resides in this State.

FACTUAL ALLEGATIONS

7. In or about August of 2015, Defendant asked Plaintiff to make him a short-term loan. Specifically, Defendant asked Plaintiff to loan him the principal sum of \$300,000.00 (“Loan Amount”), which Defendant promised to repay within a maximum of six (6) months.

8. Plaintiff did not have the Loan Amount at his disposal at the time Defendant asked Plaintiff for the loan.

9. Accordingly, Plaintiff obtained the Loan Amount by borrowing against his life insurance policy, of which Plaintiff’s son (and Defendant’s nephew) is the sole beneficiary. As a result, Plaintiff is being charged 5% interest annually on the Loan Amount.

10. On or about September 14, 2015, Plaintiff issued Defendant, and Defendant shortly thereafter cashed, a check in the Loan Amount.

11. In order to avoid any ambiguity, Plaintiff wrote the word “loan” in the memo section of the aforementioned check.

12. At that time, Defendant was aware that the only way that Plaintiff could have the funds available to lend Defendant the Loan Amount was to borrow the Loan Amount against his life insurance policy and that he would be charged 5% per year for doing so.

13. Accordingly, Defendant agreed to repay Plaintiff the Loan Amount plus interest at the same rate Plaintiff was being charged, or 5% per year.

14. Despite the parties’ agreement and despite due demand therefor, Defendant has failed or refused to repay Plaintiff the Loan Amount and interest within the six months of his receipt of the Loan Amount.

15. To date, Defendant has paid no part of the Loan Amount or interest thereon to Plaintiff.

16. At no time has Defendant disputed owing Plaintiff the Loan Amount and interest thereon.

17. To the contrary, as recently as May of 2019, Defendant reaffirmed in writing his obligation to repay the Loan Amount together with the applicable interest thereon.

18. For example, in an email to Plaintiff dated May 5, 2019, Defendant acknowledged the debt and represented that he was working on obtaining the funds needed to pay same.

19. As of August 15, 2019, Defendant owes Plaintiff the sum of \$366,636.52 with interest continuing to accrue at a rate of 5% per year.

COUNT I – BREACH OF CONTRACT

20. Plaintiff repeats and reiterates each and every allegation set forth in the paragraphs above with the same force and effect as though fully set forth herein.

21. Plaintiff and Defendant entered into an oral loan agreement, which constitutes a valid, binding, and enforceable contract between the parties.

22. Plaintiff performed all obligations, covenants, and conditions required of him under his agreement with Defendant in that he tendered to Defendant a check in the Loan Amount.

23. Defendant materially breached and defaulted under the parties' agreement by failing to repay Plaintiff the full Loan Amount plus interest at a rate of 5% per annum within six (6) months of his receiving those funds from Plaintiff.

24. As of the date hereof, the entire principal sum of the Loan Amount (\$300,000.00) together with interest thereon at the rate of 5% per annum from September 14, 2015 through the present remain due and owing to Plaintiff.

25. Accordingly, Plaintiff is entitled to a judgment against Defendant in the amount of \$\$366,636.52 with interest continuing to accrue at a rate of 5% per year through the date of entry of judgment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant as follows:

- (a) An award of money damages in an amount to be determined by this Court, but in excess of \$366,636.52 together with interest thereon at a rate of 5% per annum through date of judgment;
- (b) Costs, disbursements, and attorney's fees incurred in maintaining this action; and
- (c) Such other, further, and different relief as this Court deems just and appropriate.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Dated: New York, New York
August 20, 2019

SANTAMARINA & ASSOCIATES



By: Gil Santamarina, Esq.
Attorneys for Plaintiff
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New York, New York 10016
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